

Appl. No. 09/745,035
Amdt. dated February 24, 2005
Reply to Office Action of November 24, 2004

**AFTER FINAL EXPEDITED PROCEDURE
REMARKS**

Claims 1 to 10 were pending in the application at the time of examination. Claims 1 to 10 stand rejected as anticipated.

Claims 1 to 10 stand rejected as being anticipated by U.S. Patent No. 5,287,463, hereinafter Frame.

Applicant respectfully traverses the anticipation rejection of Claim 1 in view of Frame. To support an anticipation rejection, the MPEP requires:

**TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY
ELEMENT OF THE CLAIM**

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."
... "The identical invention must be shown in as complete detail as is contained in the ... claim."

MPEP § 2131, 8th Ed., Rev. 2, p. 2100-73 (May 2004).

Claim 1 recites:

A method for supporting flow control by a SCSI initiator using a Packetized SCSI Protocol, said method comprising:

transmitting a data packet information unit in a Packetized SCSI Protocol Data Out phase by said SCSI initiator; and

receiving a signal by said SCSI initiator, in said Packetized SCSI Protocol Data Out phase during transfer of said data packet information unit, to indicate whether another data packet information unit is to be transmitted in said Packetized SCSI Protocol Data Out phase. (Emphasis added)

Thus, limitations in Claim 1 include the "Packetized SCSI Protocol" and the "Packetized SCSI Protocol Data Out Phase."

The Examiner argued that Frame taught these limitations. Specifically, the Examiner stated in part:

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Contrary to Applicants' argument, it is clear that Frame et al. employs packetized SCSI, which involves only 2 phases. The Data In phase transfers a packet comprising a command (header) and data (payload) from the target to the initiator; and Data Out phase transfers command and data from the initiator to the target in the form of a packet containing a header and a payload. In Frame et al., a header contains 7 bytes of information. Included in the header are REQ/ACK offset byte, source and destination ID verify bytes, frame length bytes and checksum byte.

This statement mischaracterizes both the Packetized SCSI Protocol and the teaching in the prior art reference. Applicant notes that in interpreting the claim language, e.g., the "Packetized SCSI Protocol," the MPEP directs:

The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach.

MPEP § 2111, 8th Ed., Rev. 2, p. 2100-47 (May 2004).

Thus, the broadest reasonable interpretation of "Packetized SCSI Protocol" must be "consistent with the interpretation that those skilled in the art would reach." The interpretation in the rejection fails to meet this requirement.

Applicant first notes that Frame has a filing date of May 11, 1988. Thus, the Examiner's position is that Frame teaches exactly a protocol that was not defined until some time in the 1990's. (The T10 organization web site (www.t10.org) shows working papers for the SPI-3 spec that first defined packetization for SCSI, which are dated in the late 1990's.) This information is relevant because it establishes both how one of skill in the art would interpret Frame and the claim limitations. In particular, one of skill undoubtedly would be skeptical that a reference teaches exactly features in a Protocol that were not defined at the time of the reference and that were clearly for a different SCSI protocol.

Further, Frame stated:

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The SCSI architecture includes eight distinct bus phases: BUS FREE, ARBITRATION, SELECTION, RESELECTION, COMMAND, DATA, STATUS, and MESSAGE.

Frame, Col. 1, lines 52 to 55. This establishes that the COMMAND and DATA phases of Frame are separate and distinct phases. Next, Frame taught:

The Command Out phase is actually a header delivering seven bytes of information. Included in the header are a REQ/ACK offset byte, source and destination ID verify bytes, frame length bytes and a checksum byte.

In the Command Out phase, the initiator delivers control information to the target in preparation for the Data Out phase. The target will assert C/D and negate the I/O signal during the REQ/ACK handshakes of the Command Out phase. (Emphasis Added)

Frame, Col. 4, lines 24 to 32.

Thus, Frame taught that the header information cited by the Examiner was delivered in the "Command Out phase," and not in any data phase. The rejection, as quote above, characterizes the header as being transferred in the data out phase, which is clear error because it contradicts the explicit statement in the reference.

Moreover, the Packetized SCSI Protocol is more than just a protocol "which involves only 2 phases." For example, "the data packet information unit" is defined by the protocol. The comment demonstrates that Frame fails to teach the exact invention, because the rejection relies upon information transferred in a Command Phase and not one of the data phases.

Modifying a reference to eliminate a phase that is described in the reference as being distinct from a data phase has no basis in an anticipation rejection. The Examiner has cited no teaching in Frame to modify all of the various distinct phases taught to come up with a protocol "which involves only 2 phases." Thus, the very rejection demonstrates

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that the rejection is not well founded. Such a modification would be inappropriate even in an obviousness rejection.

Also, one of skill in the art would know the sequences etc. of the particular protocol. For example, one of skill in the art would not read the sequence in the rejection as even being related to the Packetized SCSI Protocol. The background section of the Specification provides generally known information concerning the "Packetized SCSI Protocol." Specifically,

According to the Packetized SCSI Protocol, data transfers from a SCSI initiator, sometimes referred to as initiator, to a SCSI target, sometimes referred to as target, were initiated by the target transferring a header packet information unit to the initiator via the Data In phase. The header packet information unit was basically a request by the target for the initiator to fetch data from the host for transfer to the target. After sending the header packet information unit, the target switched the SCSI bus phase to Data Out and awaited the data.

Specification, page 2, lines 6 to 16.

Therefore, one of skill in the art in interpreting "Packetized SCSI Protocol" and "Packetized SCSI Protocol Data Out Phase" would read Frame, as interpreted in the rejection, as teaching away because the header cited by the Examiner is transferred from the Initiator to the Target and is transferred in a command phase and not a data phase.

All of the above information is relevant because it goes directly to the MPEP requirement that broadest reasonable interpretation must be consistent with the interpretation of those of skill in the art and that the reference must teach the exact invention. This information demonstrates that the interpretation used in the rejection is inconsistent with the level of skill and mischaracterizes the explicit teachings of the reference.

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This interpretation of the broadest reasonable scope used by one of skill in the art is wholly consistent with the comments in the prior response, where the qLogic reference was used to demonstrate the knowledge of one of skill in the art that would be used in interpreting the claim language. Specifically:

Using the qLogic reference to "explain the meaning of "Packetized SCSI," qLogic stated:

In packetized SCSI, CRC is applied to all information units. . . All commands and all sense information, in addition to data, are now protected against corruption by CRC. In Ultra160 only data is protected by CRC; command and sense information have only one byte parity protection. In yet older SCSI protocols, there is no CRC protection of any sort. The uniform use of CRC in packetized SCSI represents a giant step forward in protecting data integrity. (Emphasis added.)

qLogic, § 4.1.2, pg. 11.

Since the Examiner has cited Frame as teaching using "byte parity for detecting data errors." the qLogic reference establishes that this is one of the "yet older SCSI protocols."

The MPEP, as quoted above, requires that Frame show "The identical invention . . . in as complete detail as is contained in the . . . claim." Since Frame teaches away from the Packetized SCSI Protocol, the command and transfer sequences cited in the rejection as being taught by Frame are not those known to one of skill in the art, and are contradicted by Frame. Therefore, Frame cannot teach the identical invention. All of the operations in Claim 1 are limited to a specific protocol and a specific phase within that protocol. Applicant requests reconsideration and withdrawal of the anticipation rejection of Claim 1.

The Examiner's rejection of Claims 2 and 3 further demonstrates that Frame fails to teach exactly the invention recited in Claims 2 and 3. The rejection relies upon

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information that one of skill in the art would interpret as being unrelated to operations within a Packetized SCSI data out phase. Applicant requests reconsideration and withdrawal of the anticipation rejection of each of Claims 2 and 3 in view of Frame.

With respect to the anticipation rejection of Claim 4, Claim 4 contains language similar to that discussed above for Claim 1. Therefore, the above comments concerning the anticipation rejection of Claim 1 are incorporated herein by reference. Applicant requests reconsideration and withdrawal of the anticipation rejection of Claim 4 in view of Frame.

In the anticipation rejection of Claims 5 and 7, the Examiner first stated:

the method comprising: transmitting a data packet information unit or a plurality of data packet information units, one immediately after another, by a SCSI initiator in a Packetized SCSI Protocol Data Out phase (it is first noted that Frame et al. employs packetized SCSI and therefore, the system of Frame et al. must be fully in compliance with packetized SCSI protocol.

There is no citation in this statement to Frame, and it is factually incorrect as noted above. Frame teaches away from the Packetized SCSI protocol. The Examiner goes on to state:

At the outset, it is also noted that unlike SCSI, for data transfer, packetized SCSI involves only 2 phases. The Data In phase transfers a packet comprising a command (header) and data (payload) from the target to the initiator; and Data Out phase transfers command and data from the initiator to the target in the form of a packet containing a header and a payload. Further, a packet contains nexus information (for example, the unit number of the device for which the packet is intended and the type of packet or packets to immediately follow if there is one). A packet or information unit consists of a header and a payload transmitted in pairs, except when the header indicates there is no data (payload) to follow.

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Again, this is Examiner comment without reference to any teaching in Frame that shows that Frame teaches exactly what is stated by the Examiner. In fact, as noted above and incorporated herein by reference, Frame teaches away from these comments. For Frame to teach this information, a citation should be provided for each conclusory statement.

Next the Examiner stated:

In Frame et al., it is clear that in the Data Out phase, data the initiator delivers data to the target, see at least column 4, lines 33-36)

This reduces the claim language to a gist and ignores explicit claim limitations. Such a rejection is inappropriate for an obviousness rejection and cannot be the basis for an anticipation rejection.

The Claim recites that a particular structure, "a data packet information unit," is transferred and not just "data." The Examiner has cited no teaching in Frame of such a structure. Again, the broadest reasonable interpretation must be consistent with the interpretation of one skill in the art, who would interpret "a data packet information unit" as defined within the "Packetized SCSI Protocol."

The Examiner also stated that Frame taught "monitoring a signal level on a parity line . . . in order to check the integrity of the SCSI bus, the SCSI system uses the byte parity for detecting data errors." Again, the level of skill in the art, as quoted above, demonstrates that the Examiner's interpretation is not for a packetized SCSI protocol data out phase.

As taught in the description and as known to those of skill in the art "Line P0 is not utilized by the Packetized SCSI Protocol and so is available for use by this invention." Specification, page 20, lines 13 to 15. Thus, the Examiner admits yet again that Frame fails to teach anything concerning the "Packetized SCSI Protocol." This information must be

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considered because it goes to the knowledge of one of skill in the art and how both the claim language and the reference would be interpreted. The claims are not examined in a vacuum. Moreover, the interpretation taken from Frame demonstrates that the reference teaches an older SCSI protocol and not the Packetized SCSI protocol. The above comments with respect to Claim 1 and Frame are also incorporated herein by reference. Applicant requests reconsideration and withdrawal of the anticipation rejection of each of Claims 5 and 7.

Claim 6 depends from Claim 5 and so distinguishes over Frame for at least the same reasons as Claim 5. Applicant respectfully requests reconsideration and withdrawal of the anticipation rejection of Claim 6 in view of Frame.

Claims 8 and 9 depend from Claim 7 and so each distinguishes over Frame for at least the same reasons as Claim 7. Applicant respectfully requests reconsideration and withdrawal of the anticipation rejection of each of Claims 8 and 9 in view of Frame.

With respect to the anticipation rejection of Claim 10, Applicant incorporates herein by reference the above Remarks with respect to Claims 1, 5, and 7 concerning the SCSI protocol taught by Frame. Since Frame fails to teach the Packetized SCSI protocol, Frame fails to teach "The identical invention must be shown in as complete detail as is contained in the ... claim." Thus, Frame, as interpreted by the Examiner, fails to anticipate Claim 10. Applicant respectfully requests reconsideration and withdrawal of the anticipation rejection of Claim 10.

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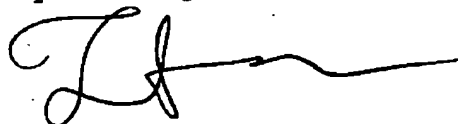
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Claims 1 to 10 remain in the application. For the foregoing reasons, Applicant(s) respectfully request allowance of all pending claims. If the Examiner has any questions relating to the above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicant(s).

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office, Fax No. (703) 872-9306, on February 24, 2005.

Respectfully submitted,



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